

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

WILLIAM WITTER, )  
Petitioner, )  
vs. )  
E.K. McDANIEL, *et al.*, )  
Respondents. )  
)  
)  
)  
)  
)  
)  
2:01-CV-1034-GMN-LRL  
**ORDER**

On November 30, 2006, this court entered an order staying this federal habeas proceeding in order to provide the petitioner, William Witter, an opportunity to exhaust state court remedies. Docket #139. On March 16, 2011, petitioner filed a motion to lift the stay and reopen these proceedings. Docket #160. On April 4, 2011, respondents filed their notice of non-opposition to petitioner's motion. Docket #162.

Good cause appearing, the court shall reopen proceedings in this matter. In addition, petitioner will be allowed the opportunity to file an amended petition. However, petitioner is cautioned that, as provided in the order granting the stay (docket #139), an amended petition shall contain only claims for which he has exhausted state court remedies.

**IT IS THEREFORE ORDERED** that petitioner's "Motion to Vacate Stay and Reopen Habeas Corpus Proceeding" (Docket #160) is **GRANTED**. The Clerk shall administratively REOPEN this action. The stay of this action is lifted.

**IT IS FURTHER ORDERED** that further proceedings in this matter are scheduled as follows:

1. **Amended petition.** Petitioner shall have **forty-five (45) days** from the date this order is entered within which to file an amended petition for habeas corpus relief. The amended petition shall contain only exhausted claims.

1           2.     **Response to Petition.** Respondents shall have **sixty (60) days** from the date the  
2 amended petition is filed to file and serve an answer or other response to petitioner's amended  
3 petition for writ of habeas corpus.

4       3.     **Reply and Response to Reply.** Petitioner shall have **forty-five (45) days** following  
5 service of an answer by respondents to file and serve a reply. Respondents shall thereafter have  
6 **thirty (30) days** following service of a reply to file and serve a response to the reply.

7       4.     **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner  
8 shall have **thirty (30) days** following service of the motion to file and serve an opposition to the  
9 motion. Respondents shall thereafter have **thirty (30) days** following service of the opposition to  
10 the motion to file and serve a reply.

11       5. **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,  
12 petitioner shall file and serve a motion for an evidentiary hearing concurrently with, but separate  
13 from, his reply to respondents' answer or his opposition to respondents' motion to dismiss. The  
14 motion for an evidentiary hearing must specifically address why an evidentiary hearing is required,  
15 and must meet the applicable requirements of 28 U.S.C. § 2254(e). The motion must identify  
16 whether an evidentiary hearing was held in state court, and, if so, state where the transcript is located  
17 in the record. If petitioner files a motion for an evidentiary hearing, respondents shall file and serve  
18 a response to that motion concurrently with, but separate from, their response to petitioner's reply or  
19 their reply in support of a motion to dismiss. Petitioner shall thereafter have **twenty (20) days**,  
20 following service of respondents' response to the motion for an evidentiary hearing, to file and serve  
21 a reply in support of that motion.

22 DATED this 7th day of April, 2011.

Gloria M. Navarro  
United States District Judge